15-04037-TLS

CERTIFICATE OF SERVICE*

I, Sarah Rhett Jones (name), certify that service of this summons and a copy of the complaint was made July 20, 2015 (date) by:

☒ Mail service: Regular, first class United States mail, postage fully pre-paid, addressed to:

☐ Personal Service: By leaving the process with the defendant or with an officer or agent of defendant at:

☐ Residence Service: By leaving the process with the following adult at:

☐ Certified Mail Service on an Insured Depository Institution: By sending the process by certified mail addressed to the following officer of the defendant at:

☐ Publication: The defendant was served as follows: [Describe briefly]

☐ State Law: The defendant was served pursuant to the laws of the State of __________, as follows: [Describe briefly]

If service was made by personal service, by residence service, or pursuant to state law, I further certify that I am, and at all times during the service of process was, not less than 18 years of age and not a party to the matter concerning which service of process was made.

Under penalty of perjury, I declare that the foregoing is true and correct.

Date: Signature [signature]

Print Name: Sarah Rhett Jones

Business Address: 1500 S. 70th St. Ste 105

Lincoln, NE 68506

Form B250A (12/09)

UNITED STATES BANKRUPTCY COURT
District of Nebraska

In Re: Vince Francis Mahon and Darlakae McGhee–Mahon
Debtor(s)

Bankruptcy Proceedings No. 13–42163–TLS
Adversary Proceedings No. 15–04037–TLS

Chapter 13

Darlakae McGhee–Mahon et al.
Plaintiff(s)

v.

Waterview 2007–1 Trust
Defendant(s)

SUMMONS IN AN ADVERSARY PROCEEDING

YOU ARE SUMMONED and required to file a motion or answer to the complaint which is attached to this summons with the clerk of the bankruptcy court within 30 days after the date of issuance of this summons, except that the United States and its offices and agencies shall file a motion or answer to the complaint within 35 days.

Address of the clerk:

United States Bankruptcy Court
460 Federal Building
100 Centennial Mall North
Lincoln, NE 68508

At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorney.

Name and address of plaintiff's attorney:

Douglas D. DeLair
DeLair, DeLair Law Firm
1500 S. 70th Street, #105
Lincoln, NE 68506

If you make a motion, your time to answer is governed by Fed. R. Bankr. P. 7012.

IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

/s/ Diane Zech
Clerk, U.S. Bankruptcy Court

By: /s/ Jackie Armstrong
Deputy Clerk

(Seal of the U.S. Bankruptcy Court)

Date of Issuance: 7/15/15

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:	Case No. BK 13-42163-TLS Chapter 13
VINCE FRANCIS MAHON, AND	
DARLAKAE MCGHEE-MAHON,	Adversary No. 15-04037-TLS
Debtors.	
VINCE FRANCIS MAHON, DARLAKAE MCGHEE-MAHON,	COMPLAINT TO DETERMINE VALIDITY, PRIORITY AND EXTENT OF LIEN
Plaintiffs,	
v.	
WATERVIEW 2007-1 TRUST,	
Defendant.	

I.

INTRODUCTION

1. Plaintiffs/Debtors, Vince Francis Mahon and Darlakae McGhee-Mahon, ("Debtors"), brings this action against Waterview 2007-1 Trust to determine the validity, priority and extent of its lien on real property. Real Time Resolutions, Inc. is the servicing agent for Waterview 2007-1 Trust.

II.

JURISDICTION

2. Jurisdiction is conferred on this Court pursuant to the provision of 29 USC 1334 in that this proceeding arises from and is related to the above captioned case under Title 11.

3. This Court has both personal and subject matter jurisdiction to hear this case pursuant to 28 USC 1334 and 28 USC 157(b)(2), respectively. This is a core proceeding.

4. This Court also has jurisdiction pursuant to 28 USC 1331 in light of the Federal Subject Matter of 11 USC 1322.

5. This adversary is proper in that it seeks to determine the validity of a judicial lien interest in real property per FRBP 7001(2), (7), and (9).

6. Venue lies in this District pursuant to 28 USC 1391(b).

III.

PARTIES

7. Debtors have residence in the County of Dakota, Nebraska and are Debtors under Title 11 of the United States Code.

8. Waterview 2007-1 Trust allegedly holds a second lien against the personal residence of the Debtors as a secured creditor in the underlying bankruptcy case.

IV.

FACTS

9. Debtors filed for Chapter 13 bankruptcy relief on November 13, 2013.

10. The personal residence was valued at $130,000.00 on the date of the Order for Relief and also on the date of his Chapter 13 bankruptcy filing. Debtors' personal residence is located at 509 Timberline Dr., So. Sioux City, NE, 68776, and legally described as Lot 188, South Ridge Estates, Fifth Filing to South Sioux City, Dakota County.

11. The secured property has a first trust lien priority in favor of The Bank of New York Mellon fka The Bank of New York as Trustee for the Certificate Holders of CWABS Inc. asset backed certificates, in the amount of $136,579.89.

12. The lien of Waterview 2007-1 Trust is wholly unsecured in light of the first trust deed, and the second lien is void or voidable pursuant to 11 U.S.C. 506(d).

13. Waterview 2007-1 Trust has no secured claim against the principal residence of the Debtors.

14. Debtors may avoid Waterview 2007-1 Trust alleged security interest since its lien is wholly unsecured against the principal residence of the Debtors.

V.

PRAYERS OF RELIEF

WHEREFORE, Debtors having set forth their claims for relief against Waterview 2007-1 Trust respectfully pray this Court grant the following relief against Waterview 2007-1 Trust:

A. Declaratory Judgment declaring Waterview 2007-1 Trust interest in the underlying real estate avoided pursuant to 11 USC 506;

B. Declaratory Judgment that claims of Waterview 2007-1 Trust against the Debtors and the estate were wholly unsecured claims;

C. Such other and further relief as the Court may deem just and proper.

DATED: July 15, 2015

VINCE FRANCIS MAHON,
DARLAKAE MCGHEE-MAHON,
Debtors,

/s/ Douglas D. DeLair
BY:__________________________

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